

REMARKS

Applicant thanks the Examiner for taking time to discuss the outstanding Office Action on January 9, 2007 with applicant's attorneys, Fred Hernandez and Angela Macfarlane. In accordance with that discussion, and in view of the present remarks, reconsideration of the rejections set forth in the Office Action dated July 27, 2006, is respectfully requested.

As discussed during the interview, claim 1 has been amended. New claims 22-26 have been added to the application. No new matter has been added.

REJECTION OF CLAIMS 1-9 UNDER 35 U.S.C. §103(a)

Claims 1-9 are rejected under 35 U.S.C. §102(e) as being allegedly unpatentable over U.S. Patent No. 4,604,087 to Joseph in view of Great Britain Patent No. GB 2,101,891 A to Molteno. However, the claims recite features that are not taught or suggested by either Joseph or Molteno. For example, claim 1 recites a device comprised of a drainage tube having at one end a foldable plate adapted to be deployed within a suprachoroidal space and to locate the device on the inner surface of the sclera. Claim 1 further recites that the drainage tube opens into the suprachoroidal space and onto the disc near one end and opening to the anterior chamber when implanted into the eye at its other end.

Both Joseph and Molteno fail to teach or suggest a device having a foldable plate adapted to be deployed within a suprachoroidal space and to locate the device on an inner surface of the sclera. The Joseph device has a drainage tube 2 and a drainage body 3 formed of a band that is positioned on the outside surface of the sclera 11, as shown in Figure 2 of Joseph. The Joseph device is not deployed within the suprachoroidal space but is rather deployed on the outside of the sclera. Likewise, the

Molteno device is also deployed on the outside of the sclera and not within the suprachoroidal space.

Moreover, neither Joseph or Molteno teach or suggest a device that is foldable. Applicant respectfully submits that the examiner failed to cite any portion of Joseph that shows or suggests that the device is foldable. Molteno also fails to teach or suggest a device that is foldable. In the office action of July 27, 2006, the examiner cited page 1, lines 68, 69, 90 and 91 in support of the assertion that the Molteno device is foldable. However, lines 68-69 of Molteno only state that "the diameter of the plate is approximately 13 mm and the radius of curvature of the concave side is 12 mm." Lines 90-91 of Molteno state that "Figure IV shows a tube 12 for insertion into the hole 5 and the eye to drain aqueous humour from the eye into space 7." Applicant respectfully submits that the examiner has failed to show how Molteno teaches or suggests a foldable device, much less a device that is foldable to a diameter of 1.5 mm.

Both Joseph and Molteno also fail to teach or suggest a drainage tube opening into the suprachoroidal space and onto the disc at one end and opening to the anterior chamber when implanted into the eye at its other end. The Joseph device has a drainage tube 2 that opens into the anterior chamber at one end. However, the other end of the drainage tube does not open into the suprachoroidal space. Rather, the other end opens "directly on to a surface of the drainage body" which is located on the outer surface of the sclera and not the suprachoroidal space. (See, for example, Joseph, col. 2, lines 11-24; Fig. 2.) Likewise, Molteno makes no mention of a drainage tube that opens into the suprachoroidal space when implanted in the eye.

In view of the foregoing, applicant respectfully submits that the claim 1 recites features that are neither taught or suggested by Joseph or Molteno. Claims 2-9 all depend from claim 1 and are patentable over the prior art for at least those reasons articulated with respect to claim 1, as well as on their own merit.

NEW CLAIMS

Applicant has added new claims 22-26. Applicant respectfully submits that the new claims recite features that are neither taught or suggested by the prior art. For example, claim 22 recites a fluid drainage tube having at a first end an anchor member adapted to be deployed within a suprachoroidal space on an inner surface of the sclera ... wherein the first end of the drainage tube opens into the suprachoroidal space... when implanted into the eye. As discussed above, the prior art fails to teach or suggest such a feature.

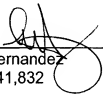
CONCLUSION

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

In view of the above amendments and remarks, reconsideration and allowance of the application are respectfully requested.

Respectfully submitted,

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